

Remarks

This amendment responds to the official action mailed June 12, 2007, and includes a Petition for Extension under 37 C.F.R. §1.136(a), a Request for Continued Examination, and a Terminal Disclaimer to obviate a double patenting rejection over US SN 10/538,552. The required official fees are submitted by EFS Deposit Account charge. Please charge any underpayment or credit any overpayment to Deposit Account 04-1679.

Objection was made to claim 32 for lack of antecedent basis for the "rod." This has been corrected as suggested in the official action by amending claim 32 to depend from claim 25.

Applicant is pleased to note the previously noted issues relating to the two certified priority documents, the illustration of the parallel pivot axes on opposite ends of the wall-mounting arm and formal objections to the disclosure have been overcome. The remaining issues involve rejections over prior art or for obviousness-type double patenting over a copending application. The claims have been amended to better distinguish over the prior art for reasons discussed below. A Terminal Disclaimer obviates the rejection on grounds of double patenting. Reconsideration and allowance are requested.

Claims 1, 3, 5, 8, 9, 18, 21-25, 29 and 31-32 were rejected as anticipated by DE 10051452 – Glunk. (This reference is identified in the official action by the inventor's first name, Guenter). Reconsideration is requested. Claim 1 has been amended to particularly define the two parallel pivot axes that are fixed to the wall-mounting arm in a manner that is neither disclosed nor suggested in the prior art and provides a novel way in which a hand shower device is carried so as to enable a detachable hand shower to be moved and aimed in a constrained way on the wall-mounting arm.

At the wall end, the wall-mounting arm is pivotable at an axis relative to the mounting fixture attached to the wall. At the other end of the arm, the holder for a detachable showerhead (a hand held showerhead on a hose) is pivoted to the wall-

mounting arm. In the claims as amended, these pivot axes at opposite ends of the arm are fixed to the arm, and as such, the pivot axes remain parallel and remain spaced from one another at opposite ends of the arm.

The claimed arrangement can be mounted such that the parallel axes are horizontal (see claim 17), in which case manual manipulation of the detachable showerhead, when engaged in the holder, moves the source of the shower spray up or down (the arm pivoting at the wall axis) and also adjusts the angle of the shower spray while constraining the spray to a direction determined by the arrangement.

Such a structure and function are not found or suggested in the prior art of record, including DE 100514532 – Glunk. In that reference, the arm structure is displaceable up and down along an elongated rod 1, and is not fixed to a mounting fixture on the wall. Assuming that the elongated rod is considered a mounting fixture, the holder for the shower device does not turn on an axis parallel to the axis defined by the elongated rod 1. The holder 9 is pivotable on an orthogonal axis as shown by arrow 10 in Fig. 1. Adjustment up and down around arrow 10 determines the direction of spray together with various other adjustments including the height on rod 1, the rotational angle around rod 1, the position of an intermediate knuckle 8 around an axis 11, and finally the rotation of holder 9 on an axis orthogonal to the rod 1, and the elongation of the arm 5.

Glunk is an example of a showerhead holder arrangement that has various degrees of freedom provided several independently movable elements. Such a showerhead holder is not characterized by two parallel pivots disposed on opposite ends of a single arm. Applicant has amended claim 1 to recite the two parallel pivot axes for the arm/fixture and holder/arm connections and has also defined that the axis at which the holder that engages the showerhead pivots on the arm, and the axis at which the arm pivots on the fixture, not only are parallel but are at a fixed spacing. This claimed structure does not read on arbitrary selections of parts in Glunk, such as any arbitrarily more-proximal joint as an arm/fixture coupling and any arbitrarily more-distal

joint (such as Glunk's axis 11) as being a holder/arm connection. Claim 1 as a whole is not met by Glunk.

In Glunk, the source of the shower spray (the showerhead) can be located nearer to the wall or farther away, while independently adjusting the height of the showerhead holder, and the rotational angle of the showerhead in two orthogonal planes. This may be desirable for some users, but the point of applicant's invention is to constrain the direction of spray from the end of the wall-mounting arm using two specific and parallel pivot angles that permit the user to raise and lower the holder by pivoting the arm at the wall fixture, and to pivot the holder that carries the showerhead around a parallel axis adjacent to the end of the arm. Applicant's positioning is simple and efficient and involves neither extensive adjustments nor the risk of an adjustment that directs the spray in a useless direction such as out of the shower stall.

The claims have been amended to distinguish from Glunk. Applicant requests reconsideration and withdrawal of the rejection under 35 U.S.C. §102. Furthermore Glunk's teachings would not lead routinely to the invention claimed as a whole. There is no reason to suspect that one might improve on the extensive versatility of multiple concatenated joints as in Glunk, by limiting the joints to two parallel pivot axes whereof one is between the arm and the showerhead holder (adjusting aim), the other is at the base of the arm (in a horizontal axis arrangement, adjusting the height of the free end of the arm carrying the showerhead holder) and wherein the two axes are at a fixed space and parallel on the arm. There is certainly no reasonable expectation that by reducing the adjustments on a showerhead holder that one might predictably obtain an improved result. Therefore, the differences between the invention and Glunk are such that the subject matter claimed as a whole is not shown to have been obvious.

The additional prior art rejections made in the official action also are overcome by this amendment. Claim 10 was rejected under 35 U.S.C. §103 over Glunk because the forking configuration of the arm was not considered to affect operation. Claim 10 depends from claim 1 and is allowable over Glunk together with claim 1. The prior art does not teach the claimed arrangement of successive pivots on the ends of an arm,

which pivots respectively govern the aim of the showerhead holder and the pivoting of the arm at the wall, on parallel fixedly spaced axes.

Claim 27 was rejected under Section 103 over Glunk in combination with DE 19942853 – Hüppe. In the exemplary embodiments, applicant's shower head is circularly disk-shaped. Nevertheless, applicant accepts that the shower head housing in Hüppe is disk-shaped, although the shape in Hüppe is an oval one. Claim 27 depends from claim 1. Neither Glunk nor Hüppe nor their combination meets the subject matter of these claims as a whole. There is no aspect of Hüppe that might be routinely extracted and used with predictable success to modify Glunk to more nearly meet applicant's claims, and no aspect of Glunk that might similarly modify Hüppe.

Hüppe appears to be pivotable only on a vertical pivot axis that is either at or immediately adjacent to the rod 3. There is no teaching of pivots adjacent to opposite ends of an arm for adjustment of shower head position and spray direction. On the contrary, Hüppe's arrangement does not provide for displacement of the shower head at the holder end, where instead the Hüppe shower head fits into a complementary seat 4. Accordingly Glunk in combination with Hüppe does not include the elements necessary to meet the invention claimed as a whole. Whereas the references also take approaches to positioning a shower head that are fundamentally unlike applicant's approach, there is no reasoned basis to conclude that the invention claimed as a whole would have been obvious.

Claims 1, 3, 5, 7, 11-16-21, 25, 26, 28 and 30 were rejected as obvious over US 5,855,348 – Fornara. The claims have been amended to clearly distinguish over Fornara. In addition to the points that applicant has raised in earlier prosecution, Fornara fails to teach or suggest any fixed relationship between the pivot axes of the arm to the fixture and the showerhead holder to the arm. Even if one assumes an arbitrary positioning of the respective parts in Fornara, which appears to be the basis of the rejection, there is no suggestion in Fornara that there is any potential benefit to be had, let alone an expectation of predictable success, by altering Fornara to restrict the pivot axis for the shower head holder to be parallel to that of the arm/fixture

connection. The whole point of Fornara is to provide multiple degrees of freedom. There is no suggestion whatsoever that an arm, for example with a horizontal pivot axis at the wall fixture as in Fornara, might be improved by fixing the distance of the shower head holder from that pivot axis and limiting the relative motion of the shower head holder to pivoting on an axis parallel to the wall/fixture axis. Fornara not only lacks a teaching of a structure as claimed, but also teaches away. The only way in which it would be possible to modify Fornara to reach the invention as claimed would defeat the very degrees of freedom of adjustment that Fornara considers necessary and desirable. Fornara does not teach or remotely suggest the invention claimed as a whole.

In a further rejection, claims 1, 5, 8, 19-20 and 27 were rejected for alleged obviousness type double patenting over copending SN 10/538,552. Applicant submits a Terminal Disclaimer to obviate this ground of rejection.

By this amendment, applicant has overcome all grounds of rejection on formal, substantive or procedural grounds. Claim 1 as amended clearly distinguishes over the prior art of record. The remaining claims depend from claim 1 and are also allowable. The differences between the invention and the prior art are such that the subject matter claimed, as a whole, is not shown to have been known or obvious. Reconsideration and allowance of the pending claims are requested.

Respectfully submitted,

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